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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,048	12/08/2003	George Belsito	717-797	7591
23869	7590	02/25/2005	EXAMINER	
HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791			NGUYEN, NINH H	
			ART UNIT	PAPER NUMBER
			3745	

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/731,048

Applicant(s)

BELSITO ET AL.

Examiner

Ninh H. Nguyen

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/08/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Birdsell et al. (6,830,433).

Birdsell discloses a multi-directional tower fan (Figs. 5-9) comprising: a base 12 for supporting the fan on a surface (Fig. 5); a first housing 16 attached to the base, the first housing having an inlet opening, an outlet opening and an interior chamber (Fig. 5); a second housing 18 rotatably attached to the first housing, the second housing having an inlet opening, an outlet opening and an interior chamber, the interior chamber of the second housing being axially aligned with the interior chamber of the first housing; an elongate rotating blower for simultaneously forcing air out through the outlet openings of the first and second housings (col. 6, lines 12-18), the blower extending from the interior chamber of the first housing to the interior chamber of the second housing; and a motor for rotating the blower (col. 6, lines 6-8), wherein, by rotating the second housing with respect to the first housing, the air being forced out of the outlet opening of the first housing may be directed in a different direction than the air being forced out of the outlet opening of the second housing;

wherein the first housing is rotatably attached to the base (Fig. 5);

wherein the blower has a longitudinal axis and the second housing is rotatably attached to the first housing about the longitudinal axis (Fig. 5);

wherein the second housing is attached to the first housing along a vertical axis by a flanged coupling (col.5, lines 61-65);

wherein the fan further comprising an oscillating mechanism for rotating the first and second housings with respect to the base (col. 6; lines 49-51).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Birdsell et al. in view of Jones-Lawlor et al. (6,321,034).

Birdsell discloses all the limitations except the second housing is not attached to the first housing along a vertical axis by a pin and slot arrangement as claimed.

Jones-Lawlor teaches a pivotable heater (Fig. 9) comprising a base 31, a first housing portion 4 rotatably connected to the base, a second housing portion 2 rotatably connected to the first housing portion; wherein the connection between the first housing portion and the second housing portion is a pin and slot arrangement (col. 4, lines 14-15).

Since both Birdsell and Jones-Lawlor are in the same field of endeavor, it would have been obvious to a person having ordinary skill in the art at the time the invention was made, to

Art Unit: 3745

make the fan of Birdsell with the second housing attached to the first housing along a vertical axis by a pin and slot arrangement as commonly done in the art.

### ***Prior Art***

The prior art made of record but not relied upon is considered pertinent to applicant's disclosure and consists of 1 patent.

Tsumurai et al. (5,266,004) is cited to show an oscillated cylinder fan.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Ninh Nguyen whose telephone number is (571) 272-4823. The examiner can be normally reached on Monday-Friday from 7:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached at (571) 272-4820. The fax number for this group is 703-872-9306.

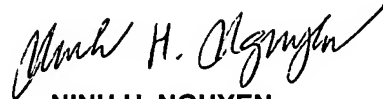
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Application/Control Number: 10/731,048

Page 5

Art Unit: 3745

system, please go to <http://pair-direct.uspto.gov> or contact the Electronic Business center (EBC) at 866-217-9197 (toll-free).



**NINH H. NGUYEN**  
**PRIMARY EXAMINER**

Nhn

February 18, 2005